



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 2016

MEMORANDUM

To: The Commission

Through: Alec Palmer
Staff Director

From: Patricia C. Orrock *PCO*
Chief Compliance Officer

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Assistant Staff Director
Audit Division

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Audit Manager

By: Pamela Wilkerson
Lead Auditor

Subject: Audit Division Recommendation Memorandum on the Majority
Committee PAC (MCP) (A13-16)

Pursuant to Commission Directive No. 70 (FEC Directive on Processing Audit Reports), the Audit staff presents its recommendation below and discusses the finding in the attached Draft Final Audit Report (DFAR). The Office of General Counsel has reviewed this memorandum and concurs with the recommendation.

Excessive Contributions to Candidates

The Audit staff determined that the MCP, a Leadership PAC for Congressman Kevin McCarthy (Sponsor), made direct money contributions to nine federal candidate committees that, when aggregated with in-kind contributions exceeded the multicandidate contribution limit by \$20,110. The excessive contributions are not eligible for redesignation. The in-kind contributions consisted of airfare paid by MCP for the Leadership PAC's Sponsor to speak or make appearances at fundraising events that directly benefitted these committees.

In response to the Interim Audit Report recommendation, MCP stated that it had contacted the nine federal candidate committees that received excessive contributions to request refunds, and has since provided documentation supporting.

refunds totaling \$13,276. The Audit staff considers the \$13,276 to be untimely resolved. In response to the DFAR, MCP noted its continued efforts to obtain the remaining excessive amounts.

The Audit staff recommends that the Commission find that the MCP made excessive contributions to federal candidate committees in the amount of \$20,110.

The Committee did not request an audit hearing.

If this memorandum is approved, a Proposed Final Audit Report will be prepared within 30 days of the Commission's vote.

In case of an objection, Directive No. 70 states that the Audit Division Recommendation Memorandum will be placed on the next regularly scheduled open session agenda.

Documents related to this audit report can be viewed in the Voting Ballot Matters folder. Should you have any questions, please contact Pamela Wilkerson or Doug Kodish at 694-1200.

Attachment:

- Draft Final Audit Report of the Audit Division on the Majority Committee PAC

cc: Office of General Counsel



Draft Final Audit Report of the Audit Division on the Majority Committee PAC

(January 1, 2011 – December 31, 2012)

Why the Audit Was Done

Federal law permits the Commission to conduct audits and field investigations of any political committee that is required to file reports under the Federal Election Campaign Act (the Act). The Commission generally conducts such audits when a committee appears not to have met the threshold requirements for substantial compliance with the Act.¹ The audit determines whether the committee complied with the limitations, prohibitions and disclosure requirements of the Act.

Future Action

The Commission may initiate an enforcement action, at a later time, with respect to any matter discussed in this report.

About the Committee (p. 2)

The Majority Committee PAC is a nonconnected, multi-candidate, House leadership, political action committee, headquartered in Bakersfield, California. The Leadership PAC Sponsor is Congressman Kevin McCarthy. For more information, see the Committee Organization, p. 2.

Financial Activity (p. 2)

Receipts

○ Contribution from Individuals	\$ 304,150
○ Contributions from Political Committees	1,412,986
○ Transfers from Affiliated Committees	220,572
○ Offsets to Operating Expenditures	9,850
Total Receipts	\$ 1,947,558

Disbursements

○ Operating Expenditures	\$ 792,934
○ Contributions to Federal Candidates	1,291,922
○ Other Disbursements	10,833
Total Disbursements	\$ 2,095,689

Finding and Recommendation (p. 3)

Excessive Contributions to Candidates

¹ 52 U.S.C. §30111(b).

Draft Final Audit Report of the Audit Division on the Majority Committee PAC

(January 1, 2011 - December 31, 2012)



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Part I

Background

Authority for Audit

This report is based on an audit of the Majority Committee PAC (MCP), undertaken by the Audit Division of the Federal Election Commission (the Commission) in accordance with the Federal Election Campaign Act of 1971, as amended (the Act). The Audit Division conducted the audit pursuant to 52 U.S.C. §30111(b), which permits the Commission to conduct audits and field investigations of any political committee that is required to file a report under 52 U.S.C. §30104. Prior to conducting any audit under this subsection, the Commission must perform an internal review of reports filed by selected committees to determine if the reports filed by a particular committee meet the threshold requirements for substantial compliance with the Act. 52 U.S.C. §30111(b).

Scope of Audit

Following Commission-approved procedures, the Audit staff evaluated various risk factors and as a result, this audit examined:

1. the consistency between reported figures and bank records;
2. the disclosures of individual contributor's occupation and name of employer;
3. the disclosure of contributions to other political committees;
4. travel related expenses; and
5. other committee operations necessary to the review.

Part II

Overview of Committee

Committee Organization

Important Dates	
• Date of Registration	August 24, 2006
• Audit Coverage	January 1, 2011 - December 31, 2012
Headquarters	Bakersfield, CA
Bank Information	
• Bank Depositories	Two
• Bank Accounts	Two Federal
Treasurer	
• Treasurer When Audit Was Conducted	Jill Thomson
• Treasurer During Period Covered by Audit	Conni Brunni: 8/24/06 – 10/18/12 Jill Thomson: 10/19/12 – Present
Management Information	
• Attended Commission Campaign Finance Seminar	Yes
• Who Handled Accounting and Recordkeeping Tasks	Paid Staff

Overview of Financial Activity (Audited Amounts)

Cash-on-hand @ January 1, 2011	\$ 205,040
Receipts	
○ Contributions from Individuals	304,150
○ Contributions from Political Committees	1,412,986
○ Transfers from Affiliated Committees	220,572
○ Offsets to Operating Expenditures	9,850
Total Receipts	\$ 1,947,558
Disbursements	
○ Operating Expenditures	792,934
○ Contributions to Federal Candidates	1,291,922
○ Other Disbursements	10,833
Total Disbursements	\$ 2,095,689
Cash-on-hand @ December 31, 2012	\$ 56,909

Part III Summary

Finding and Recommendation

Excessive Contributions to Candidates

MCP made direct money contributions to nine federal candidate committees that, when aggregated with in-kind contributions, appeared to exceed the multicandidate contribution limit by \$20,110. The in-kind contributions consisted of airfare paid by MCP for the leadership PAC's Sponsor to speak or make appearances at fundraising events that directly benefitted these committees. The excessive contributions are not eligible for redesignation. In response to the Interim Audit Report recommendation, MCP stated that it had contacted the nine federal candidate committees that received excessive contributions to request refunds. Subsequently, MCP provided copies of refund request letters sent to the nine candidate committees and provided copies of refund checks and supporting bank documentation for refunds totaling \$13,276. The Audit staff considers the \$13,276 to be untimely resolved and recommends that MCP provide copies of the additional refund checks and outstanding bank documentation to support when refunds for the remaining \$6,834 are deposited. (For more detail, see p. 4.)

Part IV

Finding and Recommendation

Finding 1. Excessive Contributions to Candidates

Summary

MCP made direct money contributions to nine federal candidate committees that, when aggregated with in-kind contributions, appeared to exceed the multicandidate contribution limit by \$20,110. The in-kind contributions consisted of airfare paid by MCP for the leadership PAC's Sponsor to speak or make appearances at fundraising events that directly benefitted these committees. The excessive contributions are not eligible for redesignation. In response to the Interim Audit Report recommendation, MCP stated that it had contacted the nine federal candidate committees that received excessive contributions to request refunds. Subsequently, MCP provided copies of refund request letters sent to the nine candidate committees and provided copies of refund checks and supporting bank documentation for refunds totaling \$13,276. The Audit staff considers the \$13,276 to be untimely resolved and recommends that MCP provide copies of the additional refund checks and outstanding bank documentation to support when refunds for the remaining \$6,834 are deposited.

Legal Standard

A. Contribution Defined. A gift, subscription, loan (except when made in accordance with 11 CFR §§100.82 and 100.83), advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office is a contribution. 11 CFR §100.52(a).

B. In-Kind Contribution. The term, *anything of value*, includes in-kind contributions. The provision of services at a charge less than the usual and normal charge results in an in-kind contribution. The usual and normal charge for a service is the commercially reasonable rate that one would expect to pay at the time the services were rendered. The value of such a contribution would be the difference between the usual and normal charge for the services and the amount the political committee was billed and paid. 11 CFR §100.52(d).

C. Contribution Limits. No multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$5,000. 52 U.S.C. §30116 (a)(2)(A).

D. Definition of Multicandidate Committee.

- A multicandidate committee is a political committee (other than an authorized candidate committee) that has satisfied the following 3 requirements:
 - It has been registered under the federal election campaign law for at least 6 months.
 - It has received contributions from more than 50 contributors.

- It has made contributions to at least 5 federal candidates. (This last requirement does not apply to state party committees.) 52 U.S.C. §30116(a)(4).
- A political committee affiliated with another political committee that has already qualified as a multicandidate committee automatically becomes a multicandidate committee by virtue of that affiliation. But it shares the contributions limits with its affiliated committee. 52 U.S.C. §30116(a)(5).

E. Allocation of Expenses Between Candidates. Expenditures made on behalf of more than one clearly identified federal candidate shall be attributed to each such candidate according to the benefit expected to be derived. In the case of a publication or broadcast communication, the attribution shall be determined by the proportion of space or time devoted to all candidates. This method shall be used to allocate payments involving both clearly identified federal candidates and one or more clearly identified non-federal candidates. 11 CFR §106.1(a).

Facts and Analysis

A. Facts

The Audit staff reviewed MCP's reported contributions to political committees, totaling \$1,292,000, and airfare, totaling \$178,000. From the review of airfare, the Audit staff found in-kind contributions to political committees totaled \$94,000. Of this amount, contributions to nine federal candidate committees, totaling \$20,110² appear to be excessive contributions, when combined with direct money contributions.³ The in-kind contributions consisted of airfare paid by MCP for the leadership PAC's Sponsor to speak or make appearances at fundraising events that directly benefitted these federal candidate committees. The excessive contributions are not eligible for redesignation.

B. Interim Audit Report & Audit Division Recommendation

At the exit conference, the Audit staff presented a finding for the potentially excessive contributions and explained that they resulted from the aggregation of direct money contributions and in-kind contributions related to airfare. A schedule of the potentially excessive contributions was provided. The Audit staff asked Counsel to provide an explanation and documentation for any item on the schedule for which they believed was incorrect. Counsel agreed and stated that they may need additional clarification for some of the items on the schedule.

In response to the exit conference, Counsel provided a narrative and documentation for three contributions that did not result in excessive contributions. The Audit staff removed these items from the schedule and they were not presented as part of the finding amount.

The Interim Audit Report recommended that MCP provide evidence showing that the contributions were not excessive or seek a refund of the excessive contributions and provide copies of the refund checks and the related depository bank statements.

² The amount of airfare/in-kind contributions was allocated equally among different committees based upon the number of events attended by the Sponsor.

³ The amount of direct money contributions was \$65,000.

C. Committee Response to Interim Audit Report

In response to the Interim Audit Report recommendation, MCP stated that it had contacted the nine federal candidate committees that received excessive contributions to request refunds. Subsequently, MCP provided copies of refund request letters sent to the nine candidate committees and provided copies of refund checks and supporting bank documentation for refunds totaling \$13,276. The Audit staff considers the \$13,276 to be untimely resolved and recommends that MCP provide copies of the additional refund checks and outstanding bank documentation to support when refunds for the remaining \$6,834 are deposited.